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No. 84-609

# In the Supreme Court

OF THE

United States

OCTOBER TERM, 1984

BRYANT R. BRITT,  
*Petitioner,*

VS.

UNITED STATES OF AMERICA, *et al.,*  
*Respondents.*

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## RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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## **RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF CERTIORARI**

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This incomprehensible and frivolous action for damages allegedly resulting from, *inter alia*, the "burning of plaintiff's brain" with "metal detectors" and "leiser [sic] camaras [sic]," filed against the President of the United States, the Secretary of State, the County of Los Angeles, and many, many others, was properly dismissed with prejudice by the district court after Petitioner turned down the opportunity offered him to amend. As we explain below, both the trial judge's dismissal of the complaint, and the Ninth Circuit's affirmance of that dismissal, were proper, and hence petitioner's Writ of Certiorari should be denied.

### **QUESTION PRESENTED FOR REVIEW**

Did the incomprehensibility of the allegations in Appellant's complaint warrant the complaint's dismissal under Federal Rules of Civil Procedure 8?

### STATEMENT OF THE CASE

On June 6, 1983, Petitioner Bryant R. Britt filed his complaint in this matter. Named in the complaint were forty-six defendants, including President Ronald Reagan, Secretary of State George Schultz, Director of the Office of Management and Budget David Stockman, The County of Los Angeles, Pastor Thomas Kilgore of the Second Baptist Church in Los Angeles, and Billy Joe Lucky (Mr. Britt's neighbor.) (TCCR 1, p. 1, lines 11-24.)<sup>1</sup> Britt alleges that the defendants conspired to deprive him of his constitutional and statutory rights. He alleges, *inter alia*, that:

"as a prerequisite for foreign aid, all allied nations are required to submit a plan to engage the plaintiff in arbitrary and capricious acts; and they are required to listen to the conversations which the plaintiff makes form [sic] this country for the purpose of inciting them to contempt for the plaintiff who is a native American. The program is being carried through computerized action, and a print out feed back of the plaintiff's life is as close to the public as the telephone to deny the freedom of speech to plaintiff. [TCCR 1, p. 11, lines 1-8.]

. . .

"from around 1968 to 1978, about five of the plaintiff's relatives were murdered [sic] in other states under the U.S. Social Security Law. [TCCR 1, p. 11, lines 9-11.]

. . .

"as a prerequisite for block grants for the several states, the executive branch has made it mandatory that all states gear their programs to involve the plaintiff

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<sup>1</sup>"TCCR" is an abbreviation of "trial court clerk's record." The number which immediately follows the abbreviation is the docket control number assigned by the clerk.

in arbitrary and capricious [sic] acts before their programs will be approved. [TCCR 1, p. 10, lines 5-8.]

. . .

"a radio active substance has been placed in plaintiff's 1976 Datsun, and his 1978 Mercedes to prevent their use and cause death. [TCCR 1, p. 10, lines 1-2.]

. . .

"some radio active substance has been placed in the plaintive [sic] garage, and his homes and farms in the State of Alabama." [TCCR 1, p. 10, lines 3-4.]

Petitioner alleged federal subject matter jurisdiction over these claims under 28 U.S.C. § 1331, 28 U.S.C. § 1343(3)-(4), 28 U.S.C. § 1346(b), and the doctrine of "pendant and ancillary" jurisdiction. (TCCR 1, p. 3, lines 12-17.)

Faced with these frivolous and unintelligible claims, Defendants and Respondents The County of Los Angeles, The Department of Social Services, Harry L. Hufford, Kenneth Hahn, and Sol Roshal, Ph.D. filed a Motion to Dismiss Plaintiff's Complaint for Lack of Jurisdiction and Failure to State a Claim upon which Relief can be Granted. (TCCR 11.) An identical motion on behalf of Defendant and Respondent Ed Tanaka was filed soon thereafter. (TCCR 13.) In response, Britt merely expanded upon the allegations in the complaint, stating, *inter alia*, that:

"The plaintiff's home is bugged with radio active elements and all of the plaintiff's friends [sic] home are bugged to either with the telephone acting as a C.B. or with focus radar to load the plaintiff up with radar to make his ears squeek and his heart beat fast. [TCCR 21, p. 2, lines 6-10.]

. . .

"That around July 5, 1983, the defendants, agents of the defents [sic] or those who are sympathetic to the causes

of the defendants kept leiser [sic] camaras [sic] which are detrimental to the brain focused on plaintiff so long until he became immobilized to the extent that he could not walk for a period of one half day. [TCCR 21, p. 2, lines 11-16.]

. . .

"The plaintiff has not been able to live in his home for about three months at night because of those welfare people who are employed to use metal detectors and other high voltage equipment to burn his brain. [TCCR 21, p. 2, lines 17-20.]

. . .

"The defendants of the state of California are directing other states through computer action to assault the plaintiff and discriminate against him. [TCCR 21, p. 2, lines 21-23.]

. . .

"The action against the plaintiff can be found in the county and state plan. [TCCR 21, p. 2, lines 24-25.]

. . .

"That around the middle of April, 1983, the plaintiff took a trip to Australia and New Zealand and while he was there, American citizens would move into the adjoining rooms with heavy radiation equipment during the night to shine through the wall on the plaintiff. The plaintiff had to leave his room and walk the streets or catch a train most of the three weeks that he was there. [TCCR 21, p. 2, lines 26-28 — p. 3, lines 1-4.]

. . .

"The news media and radio are being employed to mark the speech pattern of the plaintiff by using material which was retrieved by electronic surveillance and eve [sic] dropping." [TCCR 21, p. 3, lines 5-7.]



On July 25, 1983, a hearing on the Defendants' motions was held before the Honorable David W. Williams. (TCCR 27.) After oral arguments, the district court concluded that Britt's complaint was defective, and offered him an opportunity to amend. (TCCR 27.) Britt refused. (TCCR 27.) Accordingly, the court ordered dismissal with prejudice on the grounds of the complaint's failure to state a claim upon which relief could be granted. (TCCR 24.) Britt filed a timely notice of appeal. (TCCR 25.) The Ninth Circuit, in a memorandum opinion, affirmed dismissal of the complaint "because it failed to satisfy the requirement of Rule 8(a)(2) of the Federal Rules of Civil Procedure that the pleading contain a short and plain statement showing that the pleader is entitled to relief."

#### **REASONS FOR DENYING THE WRIT**

##### **Appellant's Complaint Was Properly Dismissed With Prejudice Under Federal Rule of Civil Procedure 8 Because The Claims Contained Therein Were Incomprehensible.**

Federal Rule of Civil Procedure 8(a) requires that complaints contain "a short and plain statement of the claim showing that the pleader is entitled to relief." It is settled law that *pro se* complaints are subject to dismissal with prejudice under Rule 8 if they are "so verbose, confused and redundant that . . . [their] true substance, if any, is well disguised." (*Corcoran v. Yorty* (9th Cir. 1965) 347 F.2d 222, 223; *Accord Nevijel v. North Coast Ins. Co.* (9th Cir. 1981) 651 F.2d 671, 674; *Prezzi v. Shelter* (2d Cir. 1972) 469 F.2d 691, 692 [pro se complaints which contain "a labyrinth prolixity of unrelated and vituperative charges that def[y] comprehension" are subject to dismissal with prejudice under Rule 8].)

In *Corcoran v. Yorty*, *supra*, the plaintiff, acting in *propria persona*, filed a "verbose, confused and redundant"



complaint for damages against numerous government officials alleging fraud and civil rights violations. The basis of the complaint was plaintiff's "objection to his being denied [a] steam engineer's license" (347 F.2d at 223), although, as the court noted, the plaintiff admitted "that the license had been given to him and that he now possesses same." (*Id.*) Finding the complaint hopelessly confused, the court affirmed dismissal under Rule 8. (*Id.*)

Britt's complaint was also ripe for dismissal under Rule 8. It is incredibly verbose. Forty-six defendants were named in the twenty-nine page complaint. (TCCR 1, pp. 3-7.) The complaint alleges violations of such diverse laws of the "Federal Communications Code" (TCCR 1, p. 3, lines 6-7) and "the Penal Codes of California" (TCCR 1, p. 3, lines 3-4.) It is redundant. There are, for example, numerous repeating assertions that defendants "assaulted [plaintiff] with deadly weapon for the purpose of committing murder on him." (See, e.g. TCCR 1, p. 10, lines 23-24; p. 10, lines 21-22; p. 9, lines 19-20; p. 9, line 17.) Finally, and above all, the complaint is confused. For example, how is it possible to commit "murder" with the Social Security Laws? (TCCR 1, p. 11, lines 9-11.) What does Britt mean when he states that "a print out feed back of . . . [his] life is as close to the public as the telephone to deny . . . [his] freedom of speech." (TCCR 1, p. 11, lines 1-8.)

If dismissal was warranted in *Corcoran*, it was certainly warranted here. Appellant Britt's contentions about "brain burning" and "leiser [sic] camaras [sic]" are surely more confused than those of the *Corcoran* plaintiff. At least the *Corcoran* plaintiff's contentions had some connection with reality.

In all, there was obviously no abuse of discretion in dismissing Britt's complaint. (See *Wood v. Santa Barbara Chamber of Commerce* (9th Cir. 1983) 699 F.2d 484, 485

["Under the circumstances of this case, the district court committed no such abuse of discretion. Wood's first complaint involved so many defendants and alleged, in vague and conclusory language, so many wrongs, that it was impossible to comprehend the allegations against any particular defendant"].)

### CONCLUSION

For the reasons above stated, the Petition for Writ of Certiorari of Bryant R. Britt should be denied.

Respectfully submitted,

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